

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1468 – SB 1685

February 21, 2018

SUMMARY OF ORIGINAL BILL: Establishes the *Historic Structure Rehabilitation Act* (Act). Upon completion of a certified rehabilitation, entitles the owner to a refund equal to the total amount of state sales and use tax paid in conjunction with the owner's qualified rehabilitation expenditures incurred; provided, that: the owner uses the historic structure for at least one year following the completion of the certified rehabilitation, as the owner's primary residence or for commercial or mixed use purposes; the rehabilitation meets standards consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation, as certified by the Tennessee Historical Commission (Commission); and the certified qualified rehabilitation expenditures are made on or after July 1, 2018.

Requires the Commission to promulgate three forms to be submitted by an applicant: a form used to request designation of a property as a certified historic structure; a form used to request certification of a proposed rehabilitation as meeting the standards consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation; and a form used to request certification of a completed rehabilitation.

The owner of the historic structure may apply with the Commission for a refund certificate, which provides the amount of sales and use tax revenue collected in conjunction with the qualified rehabilitation expenditures incurred during the rehabilitation. Requires the Commission to promulgate rules, and authorizes the Commission to adopt a fee, not to exceed an amount reasonably calculated to offset the Commission's expense in administering the requirements of this Act.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – \$62,500/FY19-20 and Subsequent Years/Historical Commission

Decrease State Revenue – Net Impact –

\$651,800/FY19-20/General Fund

\$1,303,600/FY20-21 and Subsequent Years/General Fund

Increase State Expenditures – \$62,500/FY19-20 and Subsequent Years/

Historical Commission

Decrease Local Revenue – Net Impact – \$15,700/FY19-20

\$31,400/FY20-21 and Subsequent Years

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Other Fiscal Impact – Secondary economic impacts may occur as a result of this legislation. However, due to multiple unknown factors, fiscal impacts directly attributable to such secondary economic impacts cannot be quantified with reasonable certainty.

SUMMARY OF AMENDMENT (013032): Deletes language from the original bill which authorized the owner of a certified historic structure to utilize such structure for commercial or mixed use purposes, in order to meet the one year use requirement; therefore, requires the owner to use the certified historic structure for at least one year, following the completion of the certified rehabilitation, as the owner's primary residence. Deletes language from the original bill which included in the definition of a certified historic structure, property located in this state which is listed individually on the Tennessee Register of Historic Places or located in a registered historic district listed on such register. Deletes and replaces the definition of qualified rehabilitation expenditures, establishing that such definition no longer includes the cost of acquiring the certified historic residential structure, the cost attributable to the enlargement of an existing building, or the cost of site work expenditures. Adds language which allows the taxpayer's claim for refund of state sales or use taxes paid to Tennessee to include such state taxes paid by the owner, contractors, and subcontractors on sales or use of qualified rehabilitation expenditures. Establishes that, for purposes of promulgating rules, this Act shall take effect upon becoming law; however, for all other purposes, this Act shall take effect January 1, 2019.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Revenue – \$62,500/FY19-20 and Subsequent Years/Historical Commission

Decrease State Revenue – Net Impact –
\$163,000/FY19-20/General Fund
\$325,900/FY20-21 and Subsequent Years/General Fund

**Increase State Expenditures – \$62,500/FY19-20 and Subsequent Years/
Historical Commission**

Decrease Local Revenue – Net Impact – \$3,900/FY19-20
\$7,900/FY20-21 and Subsequent Years

Other Fiscal Impact – Secondary economic impacts may occur as a result of this legislation. However, due to multiple unknown factors, fiscal impacts directly attributable to such secondary economic impacts cannot be quantified with reasonable certainty.

Assumptions for the bill as amended:

- The first year in which tax credits will be awarded will be FY19-20.
- Based on information provided by the U.S. Department of the Interior, National Park Service, Technical Preservation Services, in the annual statistical reports, the annual average of total rehabilitation expenditures in Tennessee that qualified for the federal historic rehabilitation tax credit was estimated to be \$20,022,949 per year over the four-year time period running FY12-13 through FY15-16.
- This legislation will provide a refund to the owner of the historic structure, equal to all state sales and use taxes paid in conjunction with qualified rehabilitation expenditures incurred.
- Amendment 013032 removes the ability of the owner of a historic structure to use such structure for commercial or mixed use purposes during the period of the one-year use requirement; however, the structure is required to be the owner's place of primary residence for such year.
- The proportion of historic structures that, upon rehabilitation, would be used for commercial or mixed uses relative to those used as a primary residence could not be determined with any reasonable certainty.
- For purposes of this fiscal analysis, it is assumed that the sum total of all historic rehabilitation expenditures are incurred equally between structures used for commercial or mixed use purposes and structures for owner-occupied primary residences.
- Further, excluding from the definition of certified historic structures properties located in this state which are listed individually on the Tennessee Register of Historic Places or located in a registered historic district listed on such register, therefore, is estimated to limit the number of properties to which the proposed legislation would apply.
- The total qualified rehabilitation expenditures on which sales taxes refunds will be eligible is estimated to be \$5,005,737 ($\$20,022,949 \times 25\%$) per year.
- Pursuant to Tenn. Code Ann. § 67-6-202, the state sales tax rate on personal tangible property is 7.0 percent. The effective rate of apportionment to local government pursuant to the state-shared allocation is estimated to be 3.617 percent.
- The refund earned per year pursuant to this legislation is estimated to be \$350,402 ($\$5,005,737 \times 7.0\%$).
- Due to the time required to complete the rehabilitation of a project, place the project in service, certify and review all qualified rehabilitation expenditures, and meet the one-year use requirement, the impact in the first year (FY18-19) is estimated to be negligible. It is further estimated that in the second year (FY19-20), the impact will be equal to 50 percent of the first full year impact, or \$175,201 ($\$350,402 \times 50\%$).
- The decrease in state sales tax revenue is estimated to be \$168,864 [$(\$175,201 - (\$175,201 \times 3.617\%))$] in FY19-20 and \$337,728 [$\$350,402 - (\$350,402 \times 3.617\%)$] in FY20-21 and subsequent years.
- The decrease in local revenue attributed to the state-shared allocation is estimated to be \$6,337 ($\$175,201 \times 3.617\%$) in FY19-20 and \$12,674 ($\$350,402 \times 3.617\%$) in FY20-21 and subsequent years.

- Fifty percent of the state sales tax refunds paid back to qualified applicants will be expended in the economy generating additional state and local sales tax collections.
- The average local option sales tax rate is estimated to be 2.5 percent.
- An increase in state sales tax revenue of \$5,910 $[(\$175,201 \times 50\% \times 7\%) - (\$175,201 \times 50\% \times 7\% \times 3.617\%)]$ in FY19-20; and \$11,820 $[(\$350,402 \times 50\% \times 7\%) - (\$350,402 \times 50\% \times 7\% \times 3.617\%)]$ in FY20-21 and subsequent years.
- An increase in local sales tax of \$2,412 $[(\$175,201 \times 50\% \times 2.5\%) + (\$175,201 \times 50\% \times 7\% \times 3.617\%)]$ in FY19-20; and \$4,824 $[(\$350,402 \times 50\% \times 2.5\%) + (\$350,402 \times 50\% \times 7\% \times 3.617\%)]$ in FY20-21 and subsequent years.
- The net decrease in state sales tax revenue as a result of this legislation is estimated to be \$162,954 $(\$168,864 - \$5,910)$ in FY19-20; and \$325,908 $(\$337,728 - \$11,820)$ in FY20-21 and subsequent years.
- The net decrease in local sales tax revenue as a result of this legislation is estimated to be \$3,925 $(\$6,337 - \$2,412)$ in FY19-20; and \$7,850 $(\$12,674 - \$4,824)$ in FY20-21 and subsequent years.
- Based on past information provided by the Tennessee Historical Commission, the Commission will require one additional position to administer the proposed program. This employee will: review documents to determine if they are fully completed, accurate and compliant with the established standards; work closely with the Commission's federal tax credit reviewer in order to ensure that projects using both the state and federal tax credit programs are in agreement; review plans and specifications; work with architects and property owners; make site visits; attend meetings; speak at public events about the program; and respond to inquiries from the public and other stakeholders.
- The recurring increase in the Commission's expenditures associated with this position, beginning in FY19-20, is estimated to be \$62,495 $(\$38,460 \text{ salary} + \$10,693 \text{ benefits} + \$2,942 \text{ FICA} + \$10,400 \text{ travel, supplies and materials, and other})$.
- The Commission will set application and certification fees at rates sufficient to offset the cost of administering the program. The recurring increase in the Commission's revenue, beginning in FY19-20, is estimated to be \$62,495.
- Any impact on revenue as a result of additional projects that will be undertaken only as a direct result of this legislation that would not be completed under current law would be considered forgone revenue. Due to multiple unknown factors, the extent of forgone revenue cannot be quantified with reasonable certainty.
- Secondary economic impacts may occur as a result of this legislation. Such impacts may be reflected as additional private capital investment leveraged by the proposed state sales and use tax refunds, additional jobs created as a result of rehabilitation efforts that would be undertaken as a direct result of this legislation, additional commercial activity at restored historical properties, and increased property values at and around the restored properties. However, due to multiple unknown factors, fiscal impacts directly attributable to such secondary economic impacts cannot be quantified with reasonable certainty.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/jdb